IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL
Writ Petition No. 713 of 2005 (S/S)

Mohd. Shahjahan
S/o Amir Azam
Presently posted as Asstt. Teacher (Urdu)
Balak Primary Vidyalaya,
Nagar Sketra (Town Area), Jaspur,
District – Udham Singh Nagar … Petitioner

Versus

1. State of Uttaranchal
through Secretary Basic Education,
Dehradun

2. Additional District Education Officer (B.S.A.)
Udham Singh Nagar

3. Nagar Siksha Adhikari, Kashipur /
A.B.S.A. Jaspur

4. State of U.P.
through Secretary Basic Education … Respondents

Sri Dinesh Gahatori, learned counsel for the petitioner.
Sri Paresh Tripathi learned Standing Counsel for the respondents.

Hon'ble B.C. Kandpal, J.

By way of this Writ Petition, a direction in the nature of mandamus has been sought for commanding respondents to count the seniority of the petitioner form his initial date of appointment.

Brief facts giving rise to this writ petition are that the petitioner was appointed as Assistant Teacher in Urdu on 20.08.1973 in Kashipur Town Area. The then B.S.A., Nainital directed him to submit his certificates in the office on 17.08.1973 and he accordingly submitted his certificates. Thereafter how was appointed w.e.f. 20.08.1973 as Assistant Teacher Urdu. The petitioner was transferred from Kashipur to Jaspur Town Area on 02.02.1980. The petitioner further reveals that in the year 1985, the then B.S.A. Nainital invited

application forms from the senior most Assistant Teacher Urdu with the direction to submit their document before the officer but the petitioner was not invited. Hence, the petitioner wrote a letter to the B.S.A., he being the senior most Assistant Teacher appointed in the year 1973 should be considered for promotion and he accordingly submitted his document. It has been contended in the writ petition the Superintendent of Town Area Kashipur recommended the name of the petitioner for promotion but the then B.S.A. passed an order dated 25.02.1985 by which the promotion of the petitioner was cancelled.

The petitioner thereafter has preferred several representations to the B.S.A. stating therein that the petitioner is senior to Mr. Iqbal Hussain who was promoted by order dated 25.02.1985.

The petitioner has further averred in the writ petition that on 17.09.1996, the then B.S.A. passed an order in favour of one Mr. Mahendra Kumar Sharma directing the Superintendent of Education, Kashipur to count the seniority of Mahendra Kumar Sharma from his initial date of appointment in the Town Area Kashipur though he was also transferred in the year 1996 form Town Area Ram Nagar to Town Area Kashipr. The petitioner has, therefore, again requested B.S.A. to account his seniority form his initial date of appointment as in case of Sri Mahendra Kumar Sharma but his request was turned to the waste. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Standing Counsel appearing on behalf of respondents and perused the record.

After hearing learned counsel for the petitioner and perusing the documents filed in the writ petition, this picture has emerged before me that Sri Mahendra Kumar Sharma’s case is similar to the case of the petitioner and when Sri

Mahendra Kumar Sharma was given seniority from the date of his initial appointment then why the petitioner is not being given this benefit.

As per the averment of the petitioner, the representation filed by him which has been annexed as annexure – 6 of this writ petition have not been decided as yet by the respondent. I therefore, think it just and proper to issue the direction to the respondents for deciding the representation of the petitioner by speaking and reasoned order within a period of six weeks.

Accordingly the writ petition is disposed of finally.

The respondent nos. 2 and 3 are directed to decide the representation of the petitioner within a period of 45 days by speaking and reasoned order.

(B.C. Kandpal, J.)

9th June, 2005
Shiv